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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/523,424	11/16/2005	Ole Jan Myhre	0002096USU/3053	1172
27623 7590 11/20/2007 OHLANDT, GREELEY, RUGGIERO & PERLE, LLP ONE LANDMARK SQUARE, 10TH FLOOR STAMFORD, CT 06901			EXAMINER RABAGO, ROBERTO	
			ART UNIT 1796	PAPER NUMBER
			MAIL DATE 11/20/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

Application No.

10/523,424

Applicant(s)

MYHRE ET AL.

Examiner

Roberto Rábago

Art Unit

1796

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 25 October 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1,3,5-20,22,24 and 25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,3,5-20,22,24 and 25 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_.

### DETAILED ACTION

1. Prosecution is reopened in view of new grounds of rejection as set forth below.

Applicants' amendment filed 10/25/2007 is entered.

#### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1, 3, 5-11, 13, 15, 17, 22, 24 and 25 are rejected under 35 U.S.C. 102(b) as being anticipated by WO 99/41310.

The reference discloses in Examples 1-6 the making of blown films from ethylene homopolymer/copolymer mixtures wherein the homopolymer having the required densities, film thickness, comonomer, component ratio, and Dart Drop value (see also Tables 1 and 2). Missing from the reference disclosure is the reporting of Mw and MWD. However, these features would appear to be inherent in the cited examples because applicants have stated that the polymer blend according to the invention is to be made by the method specified in WO 99/41310 (see specification at page 6, lines 6-11 and

page 13, lines 21-26). The burden of proof is shifted to applicants to show that the reference examples do not include the claimed unreported properties.

The blown films disclosed in the reference are not specifically described as shrink films; however, they are stretched during extrusion/blowing, which would impart at least some orientation to the polymer chains, and therefore the films would experience at least non-zero shrinkage upon application of some amount of heat as a result of stress relaxation. Furthermore, applicants' disclosed method of making the claimed shrink films is substantially the same as that disclosed in the reference for making a blown film, and therefore the reference films would also appear to be capable of the amount of shrinkage specified in claim 17. The burden of proof is shifted to applicants to show that the reference films would not be a shrink film within the scope of the claims.

***Claim Rejections - 35 USC § 103***

4. Claims 12, 14 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over WO 99/41310.

The parent claims are discussed with respect to this reference above. Missing from the cited example is the use of butene and hexene in the same composition. However, the reference suggests the use of more than one comonomer, including butene and hexene, at page 12, lines 6-9. Furthermore, the exemplified monomers include butene and hexene. Accordingly, one of ordinary skill in the art would be motivated to make a composition having two comonomers because the reference has

suggested such use, and said skilled worker would furthermore be motivated to select butene and hexene because these comonomers have been used in the working examples, and would be reasonably seen as preferred comonomer selections.

Also missing from the cited examples is the making of a multilayer film. However, such use is disclosed at page 5, lines 13-15, wherein the disclosed films are recommended for use on coextrusion film lines, and therefore one of ordinary skill in the art would be motivated to use the disclosed polymers to make a multilayer film using a coextrusion film line.

5. Claims 16, 19 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over WO 99/41310 as applied to claims 1 and 15 above, and further in view of EP 773257.

WO '310 does not specifically recommend a specific range of thicknesses for the disclosed films; however, the claimed range is within the range of thickness commonly known and used in the art, and therefore one of ordinary skill would be motivated to use such conventional film thicknesses. Support for this assertion may be found in EP '257, which discloses a similar high-density/low-density ethylene copolymer blend for the making of shrink films, and states that the recommended thickness range includes thicknesses of 6 mils, which is within the claimed scope (see page 3, lines 3-4).

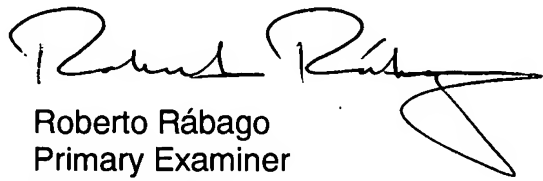
Regarding claims 19 and 20, the similar films of WO '310 use substantially the same extrusion blowing process as that used to make the specifically recited shrink films of EP '257, and therefore one of ordinary skill in the art would conclude that the

films of WO '310 would be useful as a shrink wrapping film for objects. Accordingly, said skilled worker would be motivated to employ the films of WO '310 as a shrink wrapping material.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Roberto Rábago whose telephone number is (571) 272-1109. The examiner can normally be reached on Monday - Friday from 8:00 - 4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Wu can be reached on (571) 272-1114. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Roberto Rábago  
Primary Examiner  
Art Unit 1796